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EXAMINER	
ENGLAND, DAVID E	
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2443	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/517,613	SRINIVASAN, THIRU	
	Examiner	Art Unit	
	DAVID E. ENGLAND	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 January 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 – 7, 9 – 14, 16 – 20 and 22 – 24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 – 7, 9 – 14, 16 – 20 and 22 – 24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1 – 7, 9 – 14, 16 – 20 and 22 – 24 are presented for examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 01/08/2009 has been entered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Dwek (6248946).

5. Referencing claim 1, Dwek teaches a system for automatically retrieving and playing multimedia files, comprising:

6. a network access interface which provides access to a data network, (e.g., 4, lines 25 – 59);

7. a processing module in a central site to collect information including an identifier of a first multimedia file, a first location of said first multimedia file and a first datum relating to a first schedule of the availability of said first multimedia file, wherein said processing module creates first categorization information relating to said first multimedia file, (e.g., col. 6, lines 15 – 52);

8. wherein said processing module collects information including a second identifier of a second multimedia file, a second location of said second multimedia file and a second datum relating to a second schedule of the availability of said second multimedia file, wherein said processing module creates second categorization information relating to said second multimedia file, (e.g., col. 6, lines 15 – 52);

9. wherein said processing module, said first location, and said second location are situated within distinct domains within the data network, (e.g., col. 6, lines 15 – 52);

10. a selection interface in communication with said processing module which provides for presentation of the returned information, and receives and processes a selection from a client computer for accessing a selected multimedia file from the data network and compiles a download schedule, (e.g., col. 6, lines 15 – 52);

11. a file download device in communication with the selection interface which, based on the download schedule, automatically accesses said first multimedia file at said location through said

network access interface and downloads the selected multimedia file, (e.g., col. 4, line 60 – col. 5, line 30).

12. Referencing claim 5, Dwek teaches at least one of: the selection interface, and the file download device are configured as plugins in a web browser installed in the personal computer, (e.g., col. 2, line 41 – col. 3, line 9 & col. 4, lines 16 – 43).

13. Referencing claim 6, as closely interpreted by the Examiner, Dwek teaches the selection interface includes at least one of:

14. a first selection for real time play of said first multimedia file which is downloaded, (e.g., col. 4, line 53 – col. 5, line 25);

15. a second selection for storing in a memory said first multimedia file which is downloaded in memory, (e.g., col. 4, line 53 – col. 5, line 25).

16. Referencing claim 7, Dwek teaches an interface is provided for restricting categories of multimedia files to be presented by the selection interface, (e.g., col. 7, lines 31 – 50)

17. Referencing claim 9, Dwek teaches the system includes a media player for playing said first multimedia file in real time, (e.g., col. 4, line 53 – col. 5, line 25).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

19. Claims 2 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dwek in view of Logan et al., (6199076 hereinafter Logan).

20. As per claim 2, Dwek does not specifically teach wherein the processing module in the central website receives a download schedule file from remote multimedia websites on a periodic basis. Logan teaches wherein the processing module in the central website receives a download schedule file from remote multimedia websites on a periodic basis, (e.g., col. 2, line 44 – col. 3, line 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Logan with Dwek because periodically sending updated schedules to an end device allows the device to have the latest in content that is desired, i.e., if a users favorite band releases a new album, the user would be able to hear the new content right away.

21. Referencing claim 3, Dwek teaches in the "Background of the Invention" a receiving plug-in module on a client computer to request at least a portion of a program listing created by the processing module on the central website, (e.g., col. 2, line 15 – col. 3, line 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize plug-ins since plug-ins attach themselves to already existing programs on the user's computer and take up less space than whole programs, therefore saving storage space.

22. Referencing claim 4, Dwek teaches wherein the program listing comprises a category file and at least a portion of a media guide, (e.g., col. 2, lines 40 – 59, "available songs by song title, artist, etc.", col. 6, lines 15 - 30, col. 7, lines 32 - 44).

23. Claims 10, 11, 13, 14, 17, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dwek in view of Leeke et al. (6587127) (hereinafter Leeke) and in further view of Eyal (6389467).

24. Referencing claim 10, Dwek teaches a method of retrieving multimedia files over a data network from a remote site in connection with the data network, comprising:

25. in a processing module in a central site:

26. collecting identity information and download availability information for a plurality of multimedia files, (e.g., col. 4, lines 34 – 62);

27. categorizing said plurality of multimedia files, (e.g., col. 4, lines 34 – 62, col. 9, lines 18 – 57);

28. creating a listing containing said identity information and said download availability in formation, (e.g., col. 4, lines 34 – 62, col. 9, lines 18 – 57);

29. in a client computer:

30. presenting an interactive interface which includes the listing and through which individual selections may be made for downloading the multimedia files from at least one of the plurality of multimedia, (e.g., col. 6, lines 15 – 52);

31. receiving an input through the interactive interface selecting a particular number of the plurality of multimedia files from the listing, (e.g., col. 4, line 60 – col. 5, line 30);

32. compiling a download schedule based on the received input, wherein the schedule includes a description of the multimedia file selected, time for the download, and download information, (e.g., col. 9, lines 12 – 45);

33. based on the input received through the interface, accessing and downloading over the data network, the selected multimedia files from the selected multimedia website, (e.g., col. 4, line 60 – col. 5, line 30),

34. but does not specifically teach a plurality of websites;

35. download information, including the domain;

36. wherein said plurality of multimedia websites searched comprise at least two websites in distinct domains of the data network;

37. the schedule including day and time for the download.

38. Leeke teaches compiling a download schedule based on the received input, wherein the schedule includes a description of the multimedia file selected, day and time for the download, and download information, (e.g. col. 19, line 66 – col. 20, line 42 & col. 14, lines 52 – 63 & col.15, lines 18 – 50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Leeke with Dwek so a user can view when a multimedia file was downloaded exactly or when a multimedia will be downloaded so the user can select future multimedia to download at a specific time.

39. Eyal teaches a plurality of websites, (e.g., col. 1, line 63 – col. 2, line 26);

40. download information, including the domain, (e.g. col. 2, lines 7 – 42);

wherein said plurality of multimedia websites searched comprise at least two websites in distinct domains of the data network, (e.g. col. 2, lines 7 – 42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize multiple websites and multiple multimedia files, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co., 193 USPQ 8*.

41. Referencing claim 13, Dwek teaches the multimedia files are retrieved according to a time schedule, (e.g. col. 9, lines 13 – 30).

42. Claims 11, 14, 17, 18 and 20 are rejected for similar reasons as stated above.

43. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dwek, Leeke and Eyal as applied to claims 10 and 11 above, and in further view of Martino (5987103).

44. As per claim 12, Dwek, Leeke and Eyal do not specifically teach only a predetermined number of multimedia files may be stored in memory. Martino teaches only a predetermined number of multimedia files may be stored in memory, (e.g. col. 9, lines 39 – 67). It would be obvious to one skilled in the art at the time the invention was made to combine Martino with the combine system of Dwek, Leeke and Eyal because it would be more efficient if there was a predetermined number of multimedia files stored because it could free up space to allocate of other files that my require more memory then other multimedia files.

45. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dwek, Leeke and Eyal as applied to claims 10 and 11 above, and in further view of Logan et al., (6199076 hereinafter Logan).

46. As per claim 19, Dwek, Leeke and Eyal teaches the listing is created and transmitted as disclosed above, but does not specifically teach the listing is created and transmitted automatically on a periodic basis. Logan teaches the listing is created and transmitted automatically on a periodic basis, (e.g., col. 2, line 44 – col. 3, line 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Logan with the combine system of Dwek, Leeke and Eyal because of similar reasons stated above.

47. Claims 16, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dwek, Leeke and Eyal as applied to claims 10 and 13 above, and in further view of Ten Kate et al. (6601237) (hereinafter Ten Kate).

48. Referencing claim 16, as closely interpreted by the Examiner, Dwek, Leeke and Eyal do not specifically teach any scheduling conflicts between the downloading of multimedia files are detected and the downloading is rescheduled as necessary to resolve conflicts. Ten Kate teaches any scheduling conflicts between the downloading of multimedia files are detected and the downloading is rescheduled as necessary to resolve conflicts, (e.g. col. 6, lines 32 – 46). It would have been obvious to one of ordinary skill in the art, at the time the invention was conceived, to combine Ten Kate with the combine system of Dwek, Leeke and Eyal because if more than one

multimedia is desired at the same time but only one can be obtained at a time it would be advantageous for a system to reschedule a transmission of a multimedia file that a user would desire so the user is able to receive what was requested without having to re-request for the multimedia file.

49. The teachings for claims 23 and 24 can be found in the same cited areas as stated above and are therefore rejected for those specific reasons.

50. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dwek in view of Ten Kate et al. (6601237) (hereinafter Ten Kate).

51. As per claim 22, closely interpreted by the Examiner, Dwek does not specifically teach the download device:

52. determines whether any conflicts exist in the download schedule complied by the selection interface; and

53. automatically reschedule at least one download in response to a determination that a conflict exists in the download schedule. Ten Kate teaches the download device:

54. determines whether any conflicts exist in the download schedule complied by the selection interface, (e.g. col. 6, lines 32 – 46); and

55. automatically reschedule at least one download in response to a determination that a conflict exists in the download schedule, (e.g. col. 6, lines 32 – 46). It would have been obvious

to one of ordinary skill in the art, at the time the invention was conceived, to combine Ten Kate with Dwek for similar reasons stated above.

Second Office Action

56. Claims 7, 9 – 14, 16 – 20 and 22 – 24 are presented again for examination.

Claim Rejections - 35 USC § 102

57. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

58. Claims 1 – 7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Dwek (6248946).

59. Referencing claim 1, Liu teaches a system for automatically retrieving and playing multimedia files, comprising:

60. a network access interface which provides access to a data network, (e.g., Fig. 1 & col. 3, lines 35 – 64);

61. a processing module in a central site to collect information including an identifier of a first multimedia file, a first location of said first multimedia file and a first datum relating to a

first schedule of the availability of said first multimedia file, wherein said processing module creates first categorization information relating to said first multimedia file, (e.g., col. 6, line 28 – col. 7, line 3);

62. wherein said processing module collects information including a second identifier of a second multimedia file, a second location of said second multimedia file and a second datum relating to a second schedule of the availability of said second multimedia file, wherein said processing module creates second categorization information relating to said second multimedia file, (e.g., col. 6, line 28 – col. 7, line 3);

63. wherein said processing module, said first location, and said second location are situated within distinct domains within the data network, (e.g., col. 6, line 28 – col. 7, line 3);

64. a selection interface in communication with said processing module which provides for presentation of the returned information, and receives and processes a selection from a client computer for accessing a selected multimedia file from the data network and compiles a download schedule, (e.g., Fig. 2 & col. 6, line 28 – col. 7, line 3);

65. a file download device in communication with the selection interface which, based on the download schedule, automatically accesses said first multimedia file at said location through said network access interface and downloads the selected multimedia file, (e.g., col. 2, lines 34 – 60 & col. 3, line 65 – 19).

66. Referencing claim 5, Liu teaches at least one of: the selection interface, and the file download device are configured as plugins in a web browser installed in the personal computer, (e.g., col. 4, lines 34 – 62).

67. Referencing claim 9, Liu teaches the system includes a media player for playing said first multimedia file in real time, (e.g., Fig. 2).

Claim Rejections - 35 USC § 103

68. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

69. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Logan et al., (6199076 hereinafter Logan).

70. As per claim 2, Liu does not specifically teach wherein the processing module in the central website receives a download schedule file from remote multimedia websites on a periodic basis. Logan teaches wherein the processing module in the central website receives a download schedule file from remote multimedia websites on a periodic basis, (e.g., col. 2, line 44 – col. 3, line 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Logan with Liu because periodically sending updated schedules to an end device allows the device to have the latest in content that is desired, i.e., if a users favorite band releases a new album, the user would be able to hear the new content right away.

71. Claims 3, 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu and Logan and in further view of Leeke et al. (6587127) (hereinafter Leeke).

72. Referencing claim 3, Liu teaches does not specifically teach a receiver plug-in module on a client computer to request at least a portion of a program listing created by the processing module on the central website. Leeke teaches a receiver plug-in module on a client computer to request at least a portion of a program listing created by the processing module on the central website, (e.g., col. 4, line 50 – col. 5, line 48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Leeke with the combine teachings of Liu and Logan because utilize plug-ins since plug-ins attach themselves to already existing programs on the user's computer and take up less space than whole programs, therefore saving storage space.

73. Referencing claim 4, Liu does not specifically teach the program listing comprises a category file and at least a portion of a media guide. Leeke teaches the program listing comprises a category file and at least a portion of a media guide, (e.g., col. 5, lines 7 – 15, the different categories, col. 9, lines 17 - 48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Leeke with the combine teachings of Liu and Logan because utilizing categories for files give the user an easier ability to search for specific files they would like to view, i.e., looking under a music style or era then becoming more specific in their category.

74. Referencing claim 6, as closely interpreted by the Examiner, Liu teaches the selection interface includes at least one of:

75. a second selection for storing in a memory said first multimedia file which is downloaded in memory, (e.g., col. 6, lines 28 – 50), but does not specifically teach a first selection for real time play of said first multimedia file which is downloaded. Leeke teaches a first selection for real time play of said first multimedia file which is downloaded, (e.g., col. 5, lines 1 – 48). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Leeke with Liu because real time play or "streaming" enables a user to download a multimedia file while listening to there choice without permanently downloading the multimedia file to their hard-drive, (i.e. RAM instead of disc space). Therefore saving space on the user's hard-drive and also giving the user the option to experience the multimedia file before dedicating resources to the permanent download of the multimedia file.

76. Referencing claim 7, Liu teaches an interface is provided for selecting from which the listing is created as described above, but does not specifically teach selecting from categories. Leeke teaches an interface is provided for selecting categories from which the listing is created, (e.g. col. 19, line 66 – col. 20, line 42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Leeke with Liu because utilizing categories could enable a user to view specific types of music that they would be more interested in and negate most of the music that would be of no interest to the user, (example, viewing or listing only Heavy Metal instead of Rap).

77. **Claims 10, 11, 13, 14, 17, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Leeke et al. (6587127) (hereinafter Leeke) and in further view of Eyal (6389467)**.

78. Referencing claim 10, Liu teaches a method of retrieving multimedia files over a data network from a remote site in connection with the data network, comprising:

79. in a processing module in a central site:

80. collecting identity information and download availability information for a plurality of multimedia files, (e.g., Fig. 2 & col. 6, line 28 – col. 7, line 3);

81. categorizing said plurality of multimedia files, (e.g., Fig. 2 & col. 6, line 28 – col. 7, line 3);

82. creating a listing containing said identity information and said download availability in formation, (e.g., Fig. 2 & col. 6, line 28 – col. 7, line 3);

83. in a client computer:

84. presenting an interactive interface which includes the listing and through which individual selections may be made for downloading the multimedia files from at least one of the plurality of multimedia, (e.g., Fig. 2 & col. 6, line 28 – col. 7, line 3);

85. receiving an input through the interactive interface selecting a particular number of the plurality of multimedia files from the listing, (e.g., col. 2, lines 34 – 60 & col. 3, line 65 – 19);

86. compiling a download schedule based on the received input, wherein the schedule includes a description of the multimedia file selected, time for the download, and download information, (e.g., Abstract et seq.);

87. based on the input received through the interface, accessing and downloading over the data network, the selected multimedia files from the selected multimedia website, (e.g., col. 2, lines 34 – 60 & col. 3, line 65 – 19), but does not specifically teach a plurality of websites;

88. download information, including the domain;

89. wherein said plurality of multimedia websites searched comprise at least two websites in distinct domains of the data network;

90. the schedule including day and time for the download.

91. Leeke teaches compiling a download schedule based on the received input, wherein the schedule includes a description of the multimedia file selected, day and time for the download, and download information, (e.g. col. 19, line 66 – col. 20, line 42 & col. 14, lines 52 – 63 & col.15, lines 18 – 50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Leeke with Liu so a user can view when a multimedia file was downloaded exactly or when a multimedia will be downloaded so the user can select future multimedia to download at a specific time. Eyal teaches a plurality of websites, (e.g., col. 1, line 63 – col. 2, line 26);

92. download information, including the domain, (e.g. col. 2, lines 7 – 42);

93. wherein said plurality of multimedia websites searched comprise at least two websites in distinct domains of the data network, (e.g. col. 2, lines 7 – 42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize multiple websites and multiple multimedia files, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.*

94. Referencing claim 13, Liu does not specifically teach the multimedia files are retrieved according to a time schedule. Leeke teaches the multimedia files are retrieved according to a time schedule, (e.g. col. 14, line 52 – col. 15, line 37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Leeke with Liu because of similar reasons stated above.

95. Claims 11, 14, 17, 18 and 20 are rejected for similar reasons as stated above.

96. Claim 12 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu, Leeke and Eyal as applied to claims 10 and 11 above, and in further view of Martino (5987103).

97. As per claim 12, Liu, Leeke and Eyal do not specifically teach only a predetermined number of multimedia files may be stored in memory. Martino teaches only a predetermined number of multimedia files may be stored in memory, (e.g. col. 9, lines 39 – 67). It would be obvious to one skilled in the art at the time the invention was made to combine Martino with the combine system of Liu, Leeke and Eyal because it would be more efficient if there was a predetermined number of multimedia files stored because it could free up space to allocate of other files that my require more memory then other multimedia files.

98. Claims 16, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu, Leeke and Eyal as applied to claims 10 and 13 above, and in further view of Ten Kate et al. (6601237) (hereinafter Ten Kate).

99. Referencing claim 16, as closely interpreted by the Examiner, Liu, Leeke and Eyal do not specifically teach any scheduling conflicts between the downloading of multimedia files are detected and the downloading is rescheduled as necessary to resolve conflicts. Ten Kate teaches any scheduling conflicts between the downloading of multimedia files are detected and the downloading is rescheduled as necessary to resolve conflicts, (e.g. col. 6, lines 32 – 46). It would have been obvious to one of ordinary skill in the art, at the time the invention was conceived, to combine Ten Kate with the combine system of Liu, Leeke and Eyal because if more than one multimedia is desired at the same time but only one can be obtained at a time it would be advantageous for a system to reschedule a transmission of a multimedia file that a user would desire so the user is able to receive what was requested without having to re-request for the multimedia file.

100. The teachings for claims 23 and 24 can be found in the same cited areas as stated above and are therefore rejected for those specific reasons.

101. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liu, Leeke and Eyal as applied to claims 10 and 11 above, and in further view of Logan et al., (6199076 hereinafter Logan).

102. As per claim 19, Liu, Leeke and Eyal teaches the listing is created and transmitted as disclosed above, but does not specifically teach the listing is created and transmitted automatically on a periodic basis. Logan teaches the listing is created and transmitted automatically on a periodic basis, (e.g., col. 2, line 44 – col. 3, line 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Logan with the combine system of Liu, Leeke and Eyal because of similar reasons stated above.

103. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Ten Kate et al. (6601237) (hereinafter Ten Kate).

104. As per claim 22, closely interpreted by the Examiner, Liu does not specifically teach the download device:

105. determines whether any conflicts exist in the download schedule complied by the selection interface; and

106. automatically reschedule at least one download in response to a determination that a conflict exists in the download schedule. Ten Kate teaches the download device:

107. determines whether any conflicts exist in the download schedule complied by the selection interface, (e.g. col. 6, lines 32 – 46); and

108. automatically reschedule at least one download in response to a determination that a conflict exists in the download schedule, (e.g. col. 6, lines 32 – 46). It would have been obvious

to one of ordinary skill in the art, at the time the invention was conceived, to combine Ten Kate with Liu for similar reasons stated above.

Response to Arguments

109. Applicant's arguments filed 01/08/2009 have been fully considered but they are not persuasive.

110. In the Remarks, Applicant argues in substance that Dwek does not teach the limitations of claim.

111. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

112. Furthermore, Applicant does not argue any other claim nor the second office action rejection utilizing Liu as the main reference.

Conclusion

113. **Examiner attempted to contact the Attorney of record but did not receive a call back. The Applicant is invited to contact the Examiner to further prosecution if they feel necessary.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. ENGLAND whose telephone number is (571)272-3912. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 2443

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